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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/789,728

02/26/2004

Leo Chi-Hong Wang

1128.701

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35037

7590

07/06/2005

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EXAMINER

A, PHI DIEU TRAN

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/789,728

**Applicant(s)**

WANG, LEO CHI-HONG

**Examiner**

Phi D. A

**Art Unit**

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

There is no support for the “self-draining shelves” in the specification. The disclosure only teaches shelves, not draining shelves.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States:

4. Claims 1, 3-4, 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Mann (D121494).

Mann shows a gazebo comprising a plurality of corner supports, each corner support having a top end and a bottom end and two or more legs connecting the top end and the bottom end, a roof structure (top) having a plurality of base corners, each base corner engaging the top end of the plurality of corner supports, the combination of the roof structure and the corner

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supports forming a gazebo envelope and defining an optimal benefit area within the gazebo envelope, a service unit (the counter surrounding the three sides of the stand) having a service area (inside middle section) and a patron area (outside), the service unit integrated between two adjacent corner supports, the service area and the patron area of the integrated service unit being within the gazebo envelope, some or all of the patron area being congruent with the optimal benefit area, the plurality of corner supports comprising a plurality of support columns (at the corners), the columns each comprising two or more support panels (the panels connecting the columns together), the support panels connected along adjacent leg edges, the service unit further comprising a generally U-shaped counter (the counter top for the three sides) between the service area and the patron area, the service area are bounded on three sides by the counter, the service unit further comprising one or more self-draining shelves (the shelves inherently self-draining as they dry), one or more service shelves, each of the one or more service shelves secured to a support column (at the corner in the back), a plurality of support trusses, each support truss connected between adjacent corner supports.

5. Claims 1-3, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Goodenberger (5193327).

Goodenberger (figure 3) shows a gazebo comprising a plurality of corner supports(1), each corner support having a top end and a bottom end and two or more legs connecting the top end and the bottom end, a roof structure (2) having a plurality of base corners, each base corner engaging the top end of the plurality of corner supports, the combination of the roof structure and the corner supports forming a gazebo envelope and defining an optimal benefit area within the gazebo envelope, a service unit (40) having a service area and a patron area, the service unit

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integrated between two adjacent corner supports, the service area and the patron area of the integrated service unit being within the gazebo envelope, some or all of the patron area being congruent with the optimal benefit area, one or more support panels (figure 3, the mesh between the supports), each support panel having a top end and a bottom end and two generally parallel legs connecting the top end to the bottom end, one or more support webs connected between the two generally parallel legs, one or more lateral supports connected between the two parallel legs, a plurality of support columns, the roof structure comprising an apex vent (figure 1).

6. Claims 1, 3, 5-6, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by McAlpin et al (6349511).

McAlpin et al (figures 1, 9) shows a gazebo comprising a plurality of corner supports(20), each corner support having a top end and a bottom end and two or more legs connecting the top end and the bottom end, a roof structure (104, 108) having a plurality of base corners, each base corner engaging the top end of the plurality of corner supports, the combination of the roof structure and the corner supports forming a gazebo envelope and defining an optimal benefit area within the gazebo envelope, a service unit (26) having a service area and a patron area, the service unit integrated between two adjacent corner supports, the service area and the patron area of the integrated service unit being within the gazebo envelope, some or all of the patron area being congruent with the optimal benefit area, a plurality of support columns, the roof structure comprising an apex vent, an apex opening in the roof structure, a second tier vent structure secured within the apex opening (figure 9), a second tier roof covering secured to the second tier roof structure, a plurality of support trusses (40), each truss connected between adjacent corner support.

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***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different booth designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

6/10/05